

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

0312.68813

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Application Number

10/582,435

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First Named Inventor

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Art Unit

2475

Examiner

Man U. Phan

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

/Arik B. Ranson/

☐ assignee of record of the entire interest.

See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/98)

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Registration number if acting under 37 CFR 1.34 _____

June 21, 2010

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☒ *Total of 1 forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Pre-appeal Brief Request for Review Remarks

Claims 1-33 are pending and stand rejected. Inadequate examination is demonstrated by the record of this prosecution and, in particular, unsupported misrepresentations of the applied prior art. Fairness dictates that the rejections be withdrawn and the application allowed without subjecting Applicant to the delay and expense of a full appeal.

I. The Application Should be Allowed on Pre-Appeal Because the Anticipation Rejection Ignores Required Claim Features

A The Office Action, in Rejecting Claims 1-7, 9, and 11-12 as anticipated by Li (US 6,119,162), Fails to Cite Clients Comprising Separate Residential or Business Units.

Independent claims 1 and 13 define, among other things, combining resources of clients that comprise "separate residential units or business units." Li fails to teach combining resources of separate residence or business units as in claims 1 and 13, and thus the anticipation rejection is improper. The Examiner has not pointed out where Li teaches a separate residential or business unit that is treated as a client for combining resources. Instead, the Examiner cites Li's individual computers 12, which are clients for an individual LAN. This is the only client cited in Li. To the extent that the computer 12 is alleged to teach a "residential unit" or "business unit" client, this interpretation is incorrect from the language of the claims themselves and/or from reference to the specification. "The broadest reasonable interpretation of the claims must also be consistent with the interpretation that those skilled in the art would reach." MPEP §2111.

The specification (P4) states, "[C]lients are residential units, such as houses or apartments. A high percentage of the units have a form of wired Internet access. In some preferred embodiments, each client has a wired Internet connection." Thus, resources of separate houses and apartments can be leveraged. Claim 1 requires sharing communication resource connection of a network of "separate residential units or business units." Claim 13 requires pooling Internet access connections of a community of "separate residential units or business units." Claim 29 defines, for instance, that one or more of the business or residential units includes "one or more computers interconnected by a local area network." Thus, residential units and business units can each include a separate LAN. As claimed, resources of clients comprising separate residential and or business units are combined. A formed network of these clients is unlike a private LAN. Resources are leveraged to enhance broadband access.

By contrast, Li (C4, L33-39) teaches a LAN 10 that is a network of computers 12. Neither LAN 10 nor computers 12 corresponds to separate residential or business units. Also, no resource sharing of separate residential or business units is taught by Li. Computers 12 share a connection to an ISP 16. A best server is selected and used as a gateway device, improving the operation of existing private LANs. Li seeks to make an operational private LAN, particularly home LANs that don't benefit from network administrators and other resources available to business LANs, to avoid difficulties when a server through which Internet access is provided fails. C3, L10-35 & 55-62. Li thus provides a dynamic server that permits a computer in a LAN to select a new server if a current "server is shut down or disconnected from the network" or "if a new one of computers 12 becomes available that would be a better server". C5, L28-37. The present invention, instead, can form client communities to leverage available client resources.

The Examiner cites the possibility of multiple phone lines or active services in Li to allegedly teach the separate residential units or business units. Li teaches, "[I]f there are multiple telephone lines, the server selection agent software may be altered to handle more than one active server, and the state that searches for active servers may determine which of the active servers to use based on the load at each active server. Additionally, if there are multiple active servers, each computer may route network traffic through more than one active server to increase network bandwidth." C12, L29-37. However, a single private LAN (as in Li) having even hundreds of phone lines and active servers still does not teach the required "separate residential units or business units." Further, FIGs. 2-3 and the associated description concern methods for picking an active server in a LAN. There is no comparable description of using "multiple active servers", and indeed that goal is not fairly enabled in Li.

B. Li's Alleged 'Potential' is Insufficient to Support an Anticipation Rejection.

The May 21, 2010 Advisory Action (P2) alleges that computers 12 are actually "premises" that "take the form of separate residential or commercial premises." Further alleged is that the "potential functions" of the "premises" are "interpreted" as separate residential units or business units. However, the alleged "premises" and "potential functions" have no specific cite to Li, and do not support anticipation, where all features must be taught in a single reference.

C. The Anticipation Rejections of Dependent Claims 2, 4, and 5 Are Unsupported.

Li fails to teach establishing a wireless network from clients that are separate residential or business units, as in dependent claims 2 and 4. Li instead concerns a single LAN in a residence or business. C6 of Li states that Li's LAN can be formed with various network protocols, including wireless LANs. Though Li's clients are computers 12 connected by a resource, Li neither discloses nor suggests connecting separate client business or residence units. Even if the network is formed with telephone lines or power lines, this merely discloses a particular network fabric for the computers 12. C6 merely points out other connection schemes for running dedicated Ethernet wires at a location. Even if connected wirelessly, Li fails to teach forming a wireless network of multiple clients that comprise residential or business units.

Claim 5 defines a proxy outside the network of business or residential units, while claims 11 and 12 further define that the device is accessed through the Internet or is within an ISP, respectively. No proxy is disclosed outside of Li's LAN (claim 5), accessed through the Internet (claim 11), or at an ISP (claim 12). Li teaches that a LAN computer may include proxy server software for allowing multiple computers 12 to access one ISP (which is the normal operation of a home router). Each computer on Li's LAN must act as a proxy server to implement a proxy cascade. C8, L30-37. Li's proxy would be accessed via the LAN medium (Ethernet cable, home phone line, etc.) versus access via Internet or at an ISP.

II. The Application Should be Allowed on Pre-Appeal Because Secondary Reference Vange Does Not Remedy the Clear Deficiencies of Li.

A. Vange Does Not Teach Sharing Resources of Clients Comprising Separate Residential Units or Business Units, As Needed for a Prima Facie Case for Obviousness.

Claims 8, 13-19, 21-26, & 28-33 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Li in view of Vange (US 20020002618 A1). The rejection is respectfully traversed. As pointed out above, Li does not teach clients that are multiple residential or business units, as defined in claims 1 and 13. Further, independent claim 22 requires selecting from communication resources of a community comprising "separate residential units or business units." Nothing in Vange remedies Li's deficiency. Vange also suggests no modifications to Li that would suggest the claimed invention due at least to the different goals and operations of Li and Vange. Vange offers nothing concerning the operation of a LAN or the selection of an active server. Vange does not provide any scheme to route traffic through multiple servers in a LAN, or to select one or more active servers in the LAN, which is the sole concern of Li.

The Examiner discusses Vange's environment 100 and different networks 102, 103 and 104, alleging a "computing environment 100 in which the present invention may be implemented." Such networks do not suggest the present invention. Network 101 is a "public network such as the Internet". [0026]. The present invention, e.g., could connect separate LANs 102, 103, 104 together wirelessly, sharing separate connections (via routers 109). Vange as cited only shows multiple LANs with their own ISP connection. No suggestion exists to form a network of multiple LANs independently leveraging ISP connections of separate LANs.

B. Vange and Li are Directed to Completely Different Goals, and Thus Would Not be Combined as Alleged, Even if All Features of the Claims Were Suggested.

The rejection ignores differences between a prioritization scheme (as in Vange) and server selection for a LAN (as in Li). Vange's scheme is implemented by commercial servers trying to download data with a high quality of service. Li appoints a server in a private LAN. The Examiner noted that the front-end 201 concerns a web site, not a LAN of clients as in Li. Vange permits entities outside of the last mile provider system (cable companies, cell phone companies and the like [0010]) to have control over the priority of packets within the last mile system. [0018]. A front end server is presented as an interface to the last-mile communication system. This server conducts prioritization and buffering to reorder requests before transmitting over the Internet or reordering incoming traffic from the Internet to the last-mile. [0020]. Vange's system relates to e-commerce, providing high quality service for communications that most benefit from quality of service guarantees. [0008]-[0010]. Vange discloses a scheduling server acting as an interface between an ISP and the ISP Internet connection. Li, by contrast, concerns unsophisticated private LANs, e.g., a household LAN that has automatic server selection software. C3, L55-62. For sophistication, hardware, software, etc., Li and Vange are completely unrelated. No artisan would look to Vange to improve Li's server selection scheme.

C. Features of Several Dependent Claims are Absent From Both Li and Vange.

Claim 15 requires "providing a proxy between the device outside of the network of clients and a client requesting a client session." The Examiner alleges an outside proxy server, citing C4, L61-67 - C5, L1-11". This merely discloses that there is a proxy server as part of the LAN, as required for any LAN to use a single account on an ISP (function of a standard router).

In claim 22, the clients comprise separate residential or business units. See, e.g., P4, L1-23. A network of such clients is unlike a private LAN (e.g., at a residence in Li) and resources are leveraged to enhance broadband access. Nothing in the art of record suggest combining resources of separate residence or business units as in claim 22.

Claims 29, 31 and 33 define each client as a separate LAN. The Examiner again cites networks 102, 103, and 104, but fails to show that these networks are networked together to share a resource connection, as required by the claims. The cited portions of Vange show nothing more than multiple LANs each having their own ISP connection, and there is no indication of that ISP connection being shared with other LANs. Vange's resource connection is via routers 109, but Vange does not disclose that networks 102 and 103 are networked together through these routers to share their connections. Vance does not suggest forming a network of the multiple LANs independently to leverage ISP connections, in contrast to claims defining multiple business or residential units that each have their separate resource connections and each comprising its own LAN. There is believed to be no disclosure or suggestion for how the network 102, for example, makes use of the router belonging to the network 103 and *vice versa*.

Claims 28, 30 and 32 further define encryption of communications of clients to protect communications from other clients, which can arise when sharing resources of multiple residential or business units. The Examiner relies upon Vange for suggesting encryption in Li, but Vange's front end server needs encryption as an access point for client side communications for shared last mile connections ({0032}), while Li concerns an individual, private LAN. C3, L10-35 & 55-62. A private LAN lacks the same security concerns as a front end server for a last mile connection. Vange does not suggest encrypting traffic in a private LAN such as Li's.

Separate rejections of claims 10, 20 and 27 also rely on Prokop (US 6,870,848), and are traversed. Li, C3, L55 et seq., relates to improving operations of a simple household LAN without IT support, teaching selecting an active server in a household LAN. Prokop concerns a telephone network. Cited call sessions, CPC systems, etc. have no commonality of purpose, hardware, sophistication, or operation with Li. Li is not concerned with providing "a relatively small number of telephone numbers". Prokop offers nothing to suggest modifying Li's proxy services. Moreover, as to claims 10 and 20, Li discusses using proxy server software, but limits it to requiring each and every server in the household LAN to conduct proxy services.